

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DOUGLAS DANIEL CLARK,
Plaintiff,

No. C 08-4224 PJH (PR)

ORDER OF RECUSAL

v.

RICARDO BRAU, et al.,
Defendants.

This is a civil rights case filed pro se by a state prisoner. It was twice dismissed with leave to amend. Plaintiff has now filed another amended complaint and a second motion to recuse the undersigned. Because the reasons for recusal plaintiff sets out in his motion are frivolous, malicious, or untrue, the motion (document number 27 on the docket) is **DENIED**.

However, in the latest amended complaint, plaintiff contends that four defendants – including the undersigned – conspired to cause an earlier case to be dismissed. Because the undersigned is named as a defendant, recusal sua sponte recusal is warranted. See 28 U.S.C. § 455(b)(5)(I) (a federal judge “shall” disqualify him or herself when “a party to the proceeding. . .”). The assignment committee shall randomly reassign this case to another judge.

IT IS SO ORDERED.

Dated: March 25, 2011.



PHYLLIS J. HAMILTON
United States District Judge